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**(1992) 12 AHC CK 0033**  
**In the Allahabad High Court**  
**Case No : Criminal Revision No. 560 of 1991**

Mahant Damodar Das

APPELLANT

Vs

Mukul Agarwal & Ors.

RESPONDENT

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**Date of Decision :** 03-12-1992

**Acts Referred:**

**Citation :** (1992) 12 AHC CK 0033

**Hon'ble Judges :** S.N.Saxena, J

**Final Decision :** Allowed

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## Judgement

S. N. Saxena, J.—This revision application is directed against the order dated 631991 of S. D. M. Karvi, district Banda whereby he exercised jurisdiction under Section 145 of the Criminal Procedure Code in respect of the property in dispute which included a Dharamshaia also and directed the parties to maintain status quo.

2. The proceedings had commenced on the basis of an enquiry sent to the SubDivisional Magistrate by the District Magistrate, Banda, for report after enquiring into the matter. Notices were issued to both the parties to appear before the S. D. M. on 241991. The S. D. M. mentioned in the order that some undesirable persons were trying to mismanage the Dharamshaia due to which there was an apprehension of breach of peace. The revsionist felt aggrieved from the or ler of the S. D. M. dated 1631991, and preferred this revision application.

3. One Triveni Das, who claimed himself to be the Chela of Mahant Damodar Das filed affidavit in support of the revision application.

4. The opposite parties 1, 2 and 3 contested the revision application. They claimed to be the decendants of the trustees whose duty it was to manage the affairs of the Dharamshaia and the other property attached to in including a temple. They contended that the revision application was not maintainable mainly because the S. D. M. had not exercised his jurisdiction under Section 145, Cr. P. C. According to them, the impugned order was passed by the S.D".M. in

accordance with some other provision of law and not in accordance with Section 145, Cr. P. C.

5. Learned Counsel for the parties argued mainly on the aforesaid controversy.

6. After going carefully through the impugned order dated 16391,1 find that this order purported to be under Section 145, Cr. P. C. Although the provision was not specifically mentioned in it. He had taken cognizance of the matter mainly because apprehension of breach of peace was there between the parties and the reason for the same was immoveable property consisting of Dharamshaia and temple etc. The sole reason for passing the impugned order was to prevent breach of peace.

7. Section 145, Cr. P. C. is the only provision in accordance with which a subDivisional Magistrate can assume jurisdiction if there was apprehension of breach of peace. The order, no doubt, appears to have been drafted rather carelessly. The details of the property is respect of which the impugned order was passed have not been disclosed in the order. The order thus was highly defective in nature and hardly fulfilled any purpose. The learned S. D. M. further acted in an illegal manner by directing the parties to maintain status quo and not to make any alternation in the existing condition of Dharamsbala, temple and the land appurtenant thereto. Such an order cannot be passed under Section 145, Cr. P. C. The order directing the parties to maintain status quo is a vague order and generally gives rise to more and more disputes instead of serving any definite purpose.

8. For the opposite parties it was contended that there was no apprehension of breach of peace and the learned Magistrate and wrongly assumed jurisdiction .The contention, however, did not appear to carry force. The S.D.M. was satisfied from the order of the District Magistrate and the applications moved by the parties before him that the apprehension of breach of peace was there. He, therefore, was justified in assuming jurisdiction under Section 145, Cr. P. C.

9. The impugned order, however, not having been passed properly in accordance with the requirements of Section 145, Cr. P. C. was liable to be set aside.

10. In the result, the revision application is allowed. The impugned order dated 1631991, passed by the SubDivisional Magistrate, Karvi is set aside and the case is seat back to him or decision again in accordance with law. The learned S. D. M. shall be at liberty to assume jurisdiction under Section 146, Cr. P. C. If the apprehension of the breach of peace had continued to exist.

Revision allowed.